

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division



ROBIN CASHWELL,
Plaintiff,

v.

INTEGRATED TECHNOLOGY
SOLUTIONS, INC., et al.,
Defendants.

Civil Action No. 1:12cv522

ORDER

This *pro se* employment discrimination matter is before the Court on a July 30, 2012 Report and Recommendation of the assigned United States Magistrate Judge recommending that the matter be dismissed without prejudice based on plaintiff's failure to exhaust her administrative remedies. Plaintiff filed a timely response to the Report and Recommendation on August 13, 2012. And significantly, in her response, plaintiff does not contest the magistrate judge's finding that she failed to exhaust her administrative remedies prior to initiating the instant lawsuit.¹ Yet, rather than dismissal, plaintiff requests that the case "remain open and continued next year until March 4, 2013 to give time for the EEOC case to be fully resolved." Pl. Resp. (Doc. 32) at 1.

Despite plaintiff's request that the matter "remain open" while she is involved in the required administrative proceedings, it is clear that the more appropriate course of action is to dismiss the matter without prejudice to plaintiff's right to file a new civil action, if she wishes to

¹ Indeed, the record reflects that plaintiff orally conceded in the course of a prior hearing before the magistrate judge that she did not file a charge with the Equal Employment Opportunity Commission prior to initiating this action. *See* Report and Recommendation (Doc. 28) at 2. Plaintiff further states in her response to the Report and Recommendation that she "did not know [she] had to file an EEOC case and its remedies be exhausted before coming to court." Pl. Resp. (Doc. 32) at 1.

do so, once she has exhausted her administrative remedies. In this regard, it is important to note that dismissal will not result in any financial loss to plaintiff given that she was previously granted leave to proceed in this matter in forma pauperis and thus was not required to pay the otherwise-applicable filing fee in this case. *See Cashwell v. Integrated Technology Solutions, Inc., et al.*, 1:12cv522 (E.D. Va. May 21, 2012) (granting plaintiff's motion to proceed in forma pauperis).

Accordingly, for good cause, and based upon an independent *de novo* review of the record, it is hereby **ORDERED** that the Court adopts as its own the findings of fact and recommendation of the United States Magistrate Judge, as set forth in the July 30, 2012 Report and Recommendation.

It is further **ORDERED** that the instant matter is hereby **DISMISSED** without prejudice to plaintiff's right to file a new civil action in the appropriate court once she has exhausted her administrative remedies.

Should plaintiff wish to appeal this Order, she must do so by filing a written notice of appeal within thirty (30) days after entry of this Order, pursuant to Rules 3 and 4, Fed. R. App. P.

The Clerk is **DIRECTED** to send a copy of this Order to the *pro se* plaintiff and all counsel of record and to place this matter among the ended causes.

Alexandria, VA
August 21, 2012



T. S. Ellis, III
United States District Judge